IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Ugrsen and Ors. Vs. State
S.B. CR. REVISION PETITION NO.404/2004

Against Order dated 17.05.2004 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Hanumangarh, in Criminal Case No.29/2003.

DATE OF ORDER :: 8th August, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. S.D. Goswami for petitioners.
Mr. Vishnu Kachhawha, Public Prosecutor.
Mr. Aswini Swami for complainant.

BY THE COURT:

By this petition, challenge has been made to the order passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Hanumangarh, dated 17.05.2004 in Criminal Case No.29/2003, whereby charges have been framed against the accused-petitioner and others under

Section 307, 307/34 IPC and under Section 3(ii)(v) of the SC/ST (Prevention of Atrocities) Act.

I have heard learned counsel for the parties and carefully perused the impugned order and the material available on record.

The contention of the learned counsel for the petitioners is that in this case as per facts mentioned in the FIR and looking to absence of marks of blackening on the chest of injured Prathi Raj, it cannot be said that it is a case where fire arm injury was caused and no offence under Section 307 IPC is made out against the petitioners. He has invited my attention to the FIR which was registered on the basis of Parcha Bayan of the injured. Learned counsel submits that in view of the statement of Bupendra Kumar, it is clear that the injured was not seen by other persons when incident took place, therefore, the learned trial court has committed serious illegality and the order passed by it requires to be quashed and set aside by this Court under its revisional jurisdiction. Learned counsel further submits that even if for the sake of arguments, it is considered that

pistol was taken out and fire was made on the person of the injured, then also it was only Ugresen, and other persons have been falsely involved in this case.

On the other hand, learned Public Prosecutor and learned counsel for the complainant have supported the order passed by learned trial court.

I have considered the submissions made before me.

A perusal of the FIR reveals that there are allegations against the accused-petitioner that he was having pistol in his hand and by that pistol fire was made as a result of which injured sustained injuries on his chest and at that time other accused persons were also with the petitioner. The statements read-over by the learned counsel for the petitioners do not help the petitioner so as to draw conclusion that no case under Section 307 IPC is either made out against the petitioner Ugresen or under Section 307/34 IPC against other accused persons. In the instant case, shirt worn by the injured was sent for examination and the FSL Report reveals that hole found in

the shirt worn by the injured was the result of fire made from pistol due to pallet.

After taking into consideration entire facts and circumstances of the case, I do not find any illegality in the order passed by the learned trial court which requires interference by this Court under revisional jurisdiction.

Hence, I do not find any merit in this revision and same is dismissed. Record of the case be sent forthwith. However, it is observed that whatever has been observed in this order is only for disposal of this revision petition and the learned trial court shall not be persuaded by any portion of this order during the course of trial.

(SATYA PRAKASH PATHAK)J.

vijayant